

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-00474-DLF**

SCHNEIDER v. U.S. DEPARTMENT OF JUSTICE et al
Assigned to: Judge Dabney L. Friedrich
Case: 1:18-cv-02294-DLF
Cause: 05:552 Freedom of Information Act

Date Filed: 02/28/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**BRANDON C. SCHNEIDER**

represented by **Mark Steven Zaid**
LAW OFFICES OF MARK S. ZAID, P.C.
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036
(202) 454-2809
Fax: (202) 330-5610
Email: Mark@MarkZaid.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Scott Allan Hodes
SCOTT A. HODES, ATTORNEY AT
LAW
P.O. Box 42002
Washington, DC 20015
(301) 404-0502
Fax: (413) 641-2833
Email: infoprivacylaw@yahoo.com
TERMINATED: 04/29/2019
LEAD ATTORNEY

V.

Defendant**U.S. DEPARTMENT OF JUSTICE**

represented by **Rhonda Lisa Campbell**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2559
Fax: (202) 252-2599
Email: rhonda.campbell@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**OFFICE OF PERSONNEL
MANAGEMENT**

represented by **Rhonda Lisa Campbell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|----------|--|
| 02/28/2018 | <u>1</u> | COMPLAINT against OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE (Filing fee \$ 400 receipt number 0090-5352280) filed by BRANDON C. SCHNEIDER. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons)(Hodes, Scott) (Entered: 02/28/2018) |

| | | |
|------------|-----------|--|
| 03/01/2018 | | Case Assigned to Judge Dabney L. Friedrich. (jd) (Entered: 03/01/2018) |
| 03/01/2018 | <u>2</u> | SUMMONS (4) Issued Electronically as to OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE, U.S. Attorney and U.S. Attorney General. (Attachment: # <u>1</u> Notice and Consent)(jd) (Entered: 03/01/2018) |
| 03/16/2018 | <u>3</u> | NOTICE of Appearance by Rhonda Lisa Campbell on behalf of OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE (Campbell, Rhonda) (Entered: 03/16/2018) |
| 03/26/2018 | <u>4</u> | Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint by OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE (Campbell, Rhonda) (Entered: 03/26/2018) |
| 03/29/2018 | | MINUTE ORDER granting the defendants' <u>4</u> Unopposed Motion for Extension of Time. Accordingly, it is ORDERED that the defendants shall answer or otherwise respond to the complaint on or before May 5, 2018. Signed by Judge Dabney L. Friedrich on March 29, 2018. (JPF) (Entered: 03/29/2018) |
| 05/04/2018 | <u>5</u> | ANSWER to Complaint by OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE.(Campbell, Rhonda) (Entered: 05/04/2018) |
| 05/25/2018 | | MINUTE ORDER requiring the parties to MEET AND CONFER and file a Joint Status Report proposing a schedule for further proceedings. The parties shall file the Joint Status Report no later than June 22, 2018. Signed by Judge Dabney L. Friedrich on May 25, 2018. (JK) (Entered: 05/25/2018) |
| 06/19/2018 | <u>6</u> | MEET AND CONFER STATEMENT by OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE. (Campbell, Rhonda) Modified event title on 6/20/2018. (tth) (Entered: 06/19/2018) |
| 06/20/2018 | | NOTICE OF ERROR re <u>6</u> Status Report; emailed to rhonda.campbell@usdoj.gov, cc'd 4 associated attorneys -- The PDF file you docketed contained errors: 1. Incorrect event used, 2. Please do not refile. Correct has been made. (zth,) (Entered: 06/20/2018) |
| 06/22/2018 | | MINUTE ORDER. Upon consideration of the parties' <u>6</u> Joint Status Report it is ORDERED that the defendants' motion for summary judgment shall be filed on or before August 31, 2018; the plaintiff's opposition brief and cross-motion for summary judgment shall be filed on or before September 30, 2018; the defendants' opposition brief and reply shall be filed on or before October 15, 2018; the plaintiff's reply shall be filed on or before October 29, 2018. Signed by Judge Dabney L. Friedrich on June 22, 2018. (JK) (Entered: 06/22/2018) |
| 06/22/2018 | | Set/Reset Deadlines: Plaintiff's opposition brief and cross-motion for summary judgment due by 9/30/2018. (jl) (Entered: 06/22/2018) |
| 08/31/2018 | <u>7</u> | MOTION for Summary Judgment by OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration Brewer, # <u>3</u> Declaration Hardy, # <u>4</u> Exhibit to Brewer Declaration, # <u>5</u> Exhibit to Hardy Declaration)(Campbell, Rhonda) (Entered: 08/31/2018) |
| 09/02/2018 | <u>8</u> | ERRATA Statement of Material Facts by OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE <u>7</u> MOTION for Summary Judgment filed by OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE. (Campbell, Rhonda) (Entered: 09/02/2018) |
| 09/13/2018 | <u>9</u> | SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by BRANDON C. SCHNEIDER (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Text of Proposed Order)(Hodes, Scott) (Entered: 09/13/2018) |
| 09/17/2018 | | MINUTE ORDER granting the plaintiff's <u>9</u> Unopposed Motion to Seal. Accordingly, [7-5] Exhibits A through K to the Declaration of David Hardy shall be sealed and the defendants shall file a redacted version of these exhibits on or before September 28, 2018. Signed by Judge Dabney L. Friedrich on 9/17/2018. (jl) (Entered: 09/17/2018) |
| 09/19/2018 | <u>10</u> | ERRATA Exhibits (Redacted) Pursuant to Order by U.S. DEPARTMENT OF JUSTICE Order on Sealed Motion for Leave to File Document Under Seal, |

| | | |
|------------|-----------|---|
| | | (Attachments: # <u>1</u> Exhibit redacted)(Campbell, Rhonda) (Entered: 09/19/2018) |
| 09/26/2018 | <u>11</u> | SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by BRANDON C. SCHNEIDER (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration, # <u>3</u> Exhibit, # <u>4</u> Statement of Facts, # <u>5</u> Text of Proposed Order)(Hodes, Scott) (Entered: 09/26/2018) |
| 09/26/2018 | <u>12</u> | Cross MOTION for Summary Judgment by BRANDON C. SCHNEIDER (Attachments: # <u>1</u> Text of Proposed Order)(Hodes, Scott) (Entered: 09/26/2018) |
| 09/26/2018 | | MINUTE ORDER granting the plaintiff's <u>11</u> Unopposed Motion to Seal. The plaintiff shall file a redacted copy of his cross-motion for summary judgment, declaration, exhibit, and statement of facts on or before October 10, 2018. Signed by Judge Dabney L. Friedrich on September 26, 2018. (JK) (Entered: 09/26/2018) |
| 09/26/2018 | | Set/Reset Deadlines: Redacted documents due by 10/10/2018. (JK) (Entered: 09/26/2018) |
| 09/26/2018 | <u>13</u> | Memorandum in opposition to re <u>7</u> MOTION for Summary Judgment filed by BRANDON C. SCHNEIDER. (See Docket Entry <u>12</u> to view document) (tth) (Entered: 10/01/2018) |
| 10/03/2018 | <u>14</u> | REDACTED DOCUMENT– to Order on Sealed Motion for Leave to File Document Under Seal, by BRANDON C. SCHNEIDER. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Declaration, # <u>4</u> Exhibit)(Hodes, Scott) (Entered: 10/03/2018) |
| 10/11/2018 | <u>15</u> | Unopposed MOTION for Extension of Time to File Response/Reply as to <u>12</u> Cross MOTION for Summary Judgment by OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE (Campbell, Rhonda) (Entered: 10/11/2018) |
| 10/11/2018 | | MINUTE ORDER granting <u>15</u> Defendants' Unopposed Motion for an Extension of Time to File Their Reply in Support of Defendants' Motion for Summary Judgment. The defendants' opposition brief shall be filed on or before November 1, 2018, and the plaintiff's reply shall be filed on or before November 16, 2018. Signed by Judge Dabney L. Friedrich on October 11, 2018. (JK) (Entered: 10/11/2018) |
| 10/11/2018 | | Set/Reset Deadlines: Defendant's Opposition due by 11/1/2018. Plaintiff's Reply due by 11/16/2018. (kh) (Entered: 10/11/2018) |
| 11/01/2018 | <u>16</u> | REPLY to opposition to motion re <u>12</u> Cross MOTION for Summary Judgment filed by OFFICE OF PERSONNEL MANAGEMENT, U.S. DEPARTMENT OF JUSTICE. (Attachments: # <u>1</u> Declaration 2nd Hardy Declaration)(Campbell, Rhonda) (Entered: 11/01/2018) |
| 11/16/2018 | <u>17</u> | REPLY to opposition to motion re <u>12</u> Cross MOTION for Summary Judgment filed by BRANDON C. SCHNEIDER. (Hodes, Scott) (Entered: 11/16/2018) |
| 04/29/2019 | <u>18</u> | NOTICE of Appearance by Mark Steven Zaid on behalf of All Plaintiffs (Zaid, Mark) (Entered: 04/29/2019) |
| 04/29/2019 | <u>19</u> | NOTICE OF WITHDRAWAL OF APPEARANCE as to BRANDON C. SCHNEIDER. Attorney Scott Allan Hodes terminated. (Hodes, Scott) (Entered: 04/29/2019) |
| 05/23/2019 | | ENTER IN ERROR.....MINUTE ORDER. Upon consideration of the defendants <u>18</u> Status Report and the plaintiffs <u>19</u> Reply, it is ORDERED as follows: the defendants motion for summary judgment shall be filed on or before July 18, 2019; the plaintiffs opposition/cross-motion for summary judgment shall be filed on or before August 19, 2019; the defendants opposition/reply shall be filed on or before September 16, 2019; and the plaintiffs reply shall be filed on or before October 7, 2019. Signed by Judge Dabney L. Friedrich on May 23, 2019. (lcldf3) Modified on 6/3/2019 (zcal). (Entered: 05/23/2019) |
| 05/23/2019 | | ENTERED IN ERROR.....Set/Reset Deadlines: Summary Judgment motions due by 7/18/2019. Response to Motion for Summary Judgment due by 8/19/2019. Reply to Motion for Summary Judgment due by 9/16/2019. Cross Motions due by 8/19/2019. Response to Cross Motions due by 9/16/2019. Reply to Cross Motions due by |

| | | |
|------------|-----------|--|
| | | 10/7/2019. (zcal) Modified on 6/3/2019 (zcal). (Entered: 05/23/2019) |
| 05/23/2019 | | NOTICE OF CORRECTED DOCKET ENTRY: MINUTE ORDER filed 5/23/2019 was entered in error. Incorrect case number. (zcal) (Entered: 06/03/2019) |
| 09/03/2019 | | MINUTE ORDER. Having reviewed the parties' cross-motions for summary judgment, the Court has determined that it does not have sufficient information to issue a ruling on the pending motions. Accordingly, the Court directs defendants to file a supplemental declaration addressing the following issues: (1) In its briefs, defendant U.S. Department of Justice appears to invoke FOIA Exemption 7(E) to "categorically" withhold documents that were obtained as a result of a National Agency Check. <i>See</i> Def.'s Br. at 11, Dkt. 7 ; First Hardy Decl., ¶¶ 48, 52, Dkt. [7-3]. Yet the record suggests that DOJ invoked Exemption 7(E) to redact rather than to withhold certain documents that were obtained from the National Agency Check. <i>See id.</i> ¶¶ 56, 60. Thus, the supplemental declaration shall clarify whether DOJ invoked Exemption 7(E) to either categorically withhold or to redact each document it processed, and it shall provide specific justification for each withholding or redaction. (2) The declarations are unclear about the systems the FBI searched in response to the plaintiff's request. In their Motion for Summary Judgment, the defendants state that the FBI searched the National Name Check Program records using different iterations of the plaintiff's name. <i>See</i> Def.'s Br. at 5–6. But the Hardy Declaration does not describe any specific search of the National Name Check Program. <i>See</i> Hardy Decl., ¶¶ 16–18. (3) Defendant DOJ also suggests that the Central Records System is the only records system likely to maintain responsive records about the 2005 investigation, <i>see</i> Hardy Decl. ¶ 29, but the declarations do not explain why other components of DOJ that investigate and prosecute such matters would not also have responsive records. Defendants shall file a supplemental declaration that addresses these issues on or before September 9, 2019. The plaintiff shall file a response, if any, to the defendants' supplemental declaration on or before September 16, 2019. So Ordered by Judge Dabney L. Friedrich on September 3, 2019. (lcldf3) (Entered: 09/03/2019) |
| 09/04/2019 | | Set/Reset Deadlines: Plaintiff's Response, if any, due by 9/16/2019. (kh) (Entered: 09/04/2019) |
| 09/06/2019 | <u>20</u> | Consent MOTION for Extension of Time to <i>File a Supplemental Declaration</i> , MOTION for Extension of Time to File by U.S. DEPARTMENT OF JUSTICE (Campbell, Rhonda) (Entered: 09/06/2019) |
| 09/06/2019 | | MINUTE ORDER granting in part the defendants' <u>20</u> Motion for Extension of Time to File a Supplemental Declaration. The defendants shall file their supplemental declarations on or before September 13, 2019, and the plaintiffs shall file a response, if any, on or before September 20, 2019. The Court will grant no further extensions in this case. So Ordered by Judge Dabney L. Friedrich on September 6, 2019. (Entered: 09/06/2019) |
| 09/13/2019 | <u>21</u> | RESPONSE TO ORDER OF THE COURT re Order,¶¶ 1-5, Set Deadlines, filed by U.S. DEPARTMENT OF JUSTICE. (Attachments: # 1 Declaration Hardy)(Campbell, Rhonda) (Entered: 09/13/2019) |